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9 Attorneys for Defendants  
10 TUYEN HUY NGUYEN, TU TIEN NGUYEN,  
and LONG CUU VU

11  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14  
15

16 AUREFLAM CORPORATION, a  
California corporation;

17 Plaintiff,

18 v.  
19

20 TUYEN HUY NGUYEN, individually  
and doing business as PHO HOA  
21 HUNG and PHO HOA HUNG II; TU  
TIEN NGUYEN, individually and  
22 doing business as PHO HOA HUNG  
and PHO HOA HUNG II; LONG CUU  
23 VU, individually and doing  
business as PHO HOA HUNG II and  
24 DOES 1 through 10, inclusive;

25 Defendants.  
26  
27  
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Case No. C08 01910 BZ

STIPULATION FOR ENTRY OF  
PERMANENT INJUNCTION  
PROHIBITING USE OF SERVICE  
MARK; [~~PROPOSED~~] ORDER THEREON

1 Plaintiff Aureflam Corporation ("Aureflam") and defendants  
2 Tuyen Huy Nguyen, Long Cuu Vu, and Tu Tien Nguyen ("Defendants"), by  
3 and through their counsel of record, hereby stipulate as follows:

4 1. Plaintiff Aureflam is a California corporation that owns,  
5 operates, and franchises Vietnamese style restaurants.

6 2. Aureflam owns a federal trademark registration for the  
7 mark "PHO HOA" under U.S. Trademark Registration No. 2017091, which  
8 registration has become incontestable. The registration is on the  
9 principal register and such registration is prima facie valid. The  
10 defendant hereby stipulates and agrees for all purposes that  
11 Aureflam has established that it has the exclusive right of  
12 ownership and right to use the "Pho Hoa" service mark.

13 3. Defendants Long Cuu Vu, Tuyen Huy Nguyen, and Tu Tien  
14 Nguyen are individuals who own or formerly owned restaurants located  
15 at 2211 International Boulevard, Oakland, California 94541 and at  
16 410 West A Street, Hayward, California 94541 that did business as  
17 "Pho Hoa Hung" and "Pho Hoa Hung II." Aureflam never consented to  
18 such use and contends that the Defendants' use of the "Pho Hoa Hung"  
19 and "Pho Hoa Hung II" marks infringed upon its U.S. Service Mark  
20 Registration No. 2,017,091.

21 4. The defaults of each of the defendants have been  
22 previously entered by the court.

23 5. Based on the entry of the defaults and this stipulation of  
24 the parties, it is appropriate for the court to enter a permanent  
25 injunction enjoining and restraining each of the defendants from  
26 engaging in any future use of or act of infringement of Aureflam's  
27 "Pho Hoa" service mark or any name that is or may be confusingly  
28

1 similar thereto. Consistent therewith, a permanent injunction shall  
 2 be entered against each of the Defendants, along with any and all of  
 3 their agents, servants, employees, representatives, successors, and  
 4 assigns, and all other persons acting for or in concert with any of  
 5 the foregoing persons, permanently restraining, enjoining, and  
 6 prohibiting such persons or entities from advertising, promoting, or  
 7 otherwise using the mark "PHO HOA," "PHO HOA HUNG II," any other  
 8 mark that contains both "PHO" and "HOA," as well as any other mark  
 9 that is or may be confusingly similar thereto (whether printed in  
 10 English, Vietnamese, Chinese, or any other language); and from  
 11 assisting, aiding, or abetting any other person or business entity  
 12 in engaging in or performing any such activities.

13 6. The United States District Court for the Northern District  
 14 of California shall retain jurisdiction following dismissal of this  
 15 action for purpose of enforcing the terms of the permanent  
 16 injunction.

17 IT IS SO STIPULATED.

18  
 19  
 20 DATED: 10-13-09

GORMAN & MILLER, P.C.

By 

JOHN C. GORMAN  
 Attorneys for Plaintiff  
 Aureflam Corporation

23 VALERIAN, PATTERSON & STRATMAN

24  
 25 DATED: 10-13-09

By 


EDWARD J. RODZEWICH  
 Attorneys for Defendants Tuyen  
 Huy Nguyen, Long Cuu Vu, and Tu  
 Tien Nguyen

[illegible]

Defendants Long Cuu Vu, Tuyen Huy Nguyen, and Tu Tien Nguyen, along with any and all of their agents, servants, employees, representatives, successors, and assigns, and all other persons acting for or in concert with them or either of them, are permanently restrained, enjoined, and prohibited, immediately and forthwith, from

2. Assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in paragraph 1 above.

IT IS SO ORDERED.

  
HON. BERNARD ZIMMERMAN

HON. BERNARD ZIMMERMAN  
United States Magistrate Judge